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DATE:
March 16, 2006

MAR 16 2006

FAX NO.:
571-273-8300

TOTAL NO. OF PAGES: (including cover sheet)
34

YOUR REFERENCE NO.:

OUR REFERENCE (C/M) NO.:
011738.00139

RE: Refiling of amendment after receipt of Notice of Non-Compliant Amendment

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/687,389	10/15/2003	Ivan Osorio	011738.00139	2112
22908	7590	03/03/2006	EXAMINER	
BANNER & WITCOFF, LTD. TEN SOUTH WACKER DRIVE SUITE 3000 CHICAGO, IL 60606			ASTORINO, MICHAEL C	
			ART UNIT	PAPER NUMBER
			3736	

DATE MAILED: 03/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

11738.00139
DOCKETED
Not. of Non-Compliance Recd.
MAR 07 2006
Resp. Due: 4/3/06
Last Day: 4/3/06

Notice of Non-Compliant Amendment (37 CFR 1.121)

Application No.

10/687,389

Applicant(s)

OSORIO ET AL

Examiner

Michael C. Astorino

Art Unit

3736

— The MAILING DATE of this communication appears on the cover sheet with the correspondence address —

The amendment document filed on 11/30/2005 is considered non-compliant because it has failed to meet the requirements of 37 CFR 1.121 or 1.4. In order for the amendment document to be compliant, correction of the following item(s) is required.

THE FOLLOWING MARKED (X) ITEM(S) CAUSE THE AMENDMENT DOCUMENT TO BE NON-COMPLIANT:

- ☐ 1. Amendments to the specification:
- ☐ A. Amended paragraph(s) do not include markings.
 - ☐ B. New paragraph(s) should not be underlined.
 - ☐ C. Other _____.
- ☐ 2. Abstract:
- ☐ A. Not presented on a separate sheet, 37 CFR 1.72.
 - ☐ B. Other _____.
- ☐ 3. Amendments to the drawings:
- ☐ A. The drawings are not properly identified in the top margin as "Replacement Sheet," "New Sheet," or "Annotated Sheet" as required by 37 CFR 1.121(d).
 - ☐ B. The practice of submitting proposed drawing correction has been eliminated. Replacement drawings showing amended figures, without markings, in compliance with 37 CFR 1.84 are required.
 - ☐ C. Other _____.
- ☐ 4. Amendments to the claims:
- ☐ A. A complete listing of all of the claims is not present.
 - ☐ B. The listing of claims does not include the text of all pending claims (including withdrawn claims)
 - ☐ C. Each claim has not been provided with the proper status identifier, and as such, the individual status of each claim cannot be identified. Note: the status of every claim must be indicated after its claim number by using one of the following status identifiers: (Original), (Currently amended), (Canceled), (Previously presented), (New), (Not entered), (Withdrawn) and (Withdrawn-currently amended).
 - ☐ D. The claims of this amendment paper have not been presented in ascending numerical order.
 - ☐ E. Other: _____.
- ☒ 5. Other (e.g., the amendment is unsigned or not signed in accordance with 37 CFR 1.4):
See Continuation Sheet

For further explanation of the amendment format required by 37 CFR 1.121, see MPEP § 714.

TIME PERIODS FOR FILING A REPLY TO THIS NOTICE:

1. Applicant is given **no new time period** if the non-compliant amendment is an after-final amendment or an amendment filed in response to a *Quayle* action. If applicant wishes to resubmit the non-compliant after-final amendment with corrections, the **entire corrected amendment** must be resubmitted.
2. Applicant is given **one month**, or thirty (30) days, whichever is longer, from the mail date of this notice to supply the correction, if the non-compliant amendment is one of the following: a preliminary amendment, a non-final amendment (including a submission for a request for continued examination (RCE) under 37 CFR 1.114), a supplemental amendment filed within a suspension period under 37 CFR 1.103(a) or (c), and an amendment filed in response to a *Quayle* action. If any of above boxes 1. to 4. are checked, the correction required is only the **corrected section** of the non-compliant amendment in compliance with 37 CFR 1.121.

Extensions of time are available under 37 CFR 1.136(a) only if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action.

Failure to timely respond to this notice will result in:

Abandonment of the application if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action; or

Non-entry of the amendment if the non-compliant amendment is a preliminary amendment or supplemental amendment.

PATENT

Legal Instruments Examiner (LIE), if applicable

Telephone No.

U.S. Patent and Trademark Office

Part of Paper No. 0811

Continuation Sheet (PTOL-324)

Application No. 10/887,389

Continuation of 5 Other: The response was submitted by fax. The faxed document received including the claims and response was of poor quality. Specifically, certain characters were missing from the documents. The applicant should re-file the response by mail or from a fax machine that will transmit the document properly..

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Auto-Reply Facsimile Transmission



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Fax Information

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TO:		FROM:			
U.S. Patent and Trademark Office		Bimal J. Patel			
COMPANY:		DATE:			
Mail Stop Amendment		December 12, 2005			
FAX NO.:		TOTAL NO. OF PAGES: (including cover sheet)			
571-273-8300		29			
YOUR REFERENCE NO.:		OUR REFERENCE (CIVIL) NO.:			
		011738.00199			
RE: Filing of Responses/Amendments and One Month Extension of Time for U.S. Serial No. 10/887,889 Application of Ocarlo, et al. Filed: October 16, 2003 Title: Encoding Of Encoded Neurological Signals For Use With A Medical Device System					
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PAGE 13 * RVD AT 12/12/2005 5:26:33 PM [Eastern Standard Time] * SVR:USPTO-EFAX-63 * DNIS:2738300 * CSID:13124635001 * DURATION (mm-ss):10-00					


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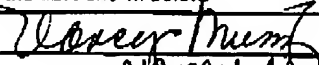
PTO/SB/21 (09-04)
 Approved for use through 07/31/2009. OMB 0651-0031
 U.S. Patent and Trademark Office, U.S. DEPARTMENT OF COMMERCE

TRANSMITTAL FORM (to be used for all correspondence after initial filing)	Application Number	10/887,389
	Filing Date	October 15, 2003
	First Named Inventor	Osoyo, et al.
	Art Unit	3736
	Examiner Name	Michael C. Astorino
Total Number of Pages in This Submission	Attorney Docket Number	011738.00139

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ENCLOSURES (check all that apply)		
<input checked="" type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input checked="" type="checkbox"/> Amendment / Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input checked="" type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Reply to Missing Parts/Incomplete Application <input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____ <input type="checkbox"/> Landscape Table on CD	<input type="checkbox"/> After Allowance Communication to TC <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): Facsimile Cover Sheet
Remarks: The Commissioner is authorized to charge any fees in connection with this correspondence to Deposit Account No. 19-0733. A duplicate of this sheet is enclosed.		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT			
Firm	Banner & Witcoff, LTD.		
Signature			
Printed Name	Binal J. Patel		
Date	December 12, 2005	Reg. No.	42,065

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Typed or printed name	Nancy Maniz	Date	12/12/05

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PTO/SB/21 (09-04)
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TRANSMITTAL FORM (to be used for all correspondence after initial filing)	Application Number	10/687,389
	Filing Date	October 15, 2003
	First Named Inventor	Osorio, et al.
	Art Unit	3736
	Examiner Name	Michael C. Astorico
Total Number of Pages in This Submission	Attorney Docket Number	011738.00139

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ENCLOSURES (check all that apply)		
<input checked="" type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input checked="" type="checkbox"/> Amendment / Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input checked="" type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Reply to Missing Parts/Incomplete Application <input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____ <input type="checkbox"/> Landscape Table on CD	<input type="checkbox"/> After Allowance Communication to TC <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s): (please identify below): Facsimile Cover Sheet
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PTO/SB/17 (12-04v2)

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Effective on 12/05/2004.
Fees pursuant to the Consolidated Appropriations Act, 2005 (P.L. 109-105).

FEE TRANSMITTAL for FY 2005

☐ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT \$590.00

Complete if Known

Application Number	10/687,389
Filing Date	October 15, 2003
First Named Inventor	Osorio, et al.
Examiner Name	Michael C. Astorino
Art Unit	3736
Attorney Docket No.	011738.00139

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FEE CALCULATION

1. BASIC FILING, SEARCH, AND EXAMINATION FEES

Application Type	FILING FEES		SEARCH FEES		EXAMINATION FEES		Fees Paid (\$)
	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	
Utility	300	150	500	250	200	100	
Design	200	100	100	50	130	65	
Plant	200	100	300	150	160	80	
Reissue	300	150	500	250	600	300	
Provisional	200	100	0	0	0	0	

2. EXCESS CLAIM FEES

Fee Description	Small Entity Fee (\$)	Fee (\$)
Each claim over 20 (including Reissues)	50	25
Each independent claim over 3 (including Reissues)	200	100
Multiple dependent claims	360	180

Total Claims	Extra Claims	Fee (\$)	Fee Paid (\$)
- 20 or HP = 2	x 50	=	450.00

HP = highest number of total claims paid for, if greater than 20.

Indep. Claims	Extra Claims	Fee (\$)	Fee Paid (\$)
- 3 or HP = 1	x 200	=	200.00

HP = highest number of independent claims paid for, if greater than 3.

3. APPLICATION SIZE FEE

If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)), the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

Total Sheets	Extra Sheets	Number of each additional 50 or fraction thereof	Fee (\$)	Fee Paid (\$)
- 100 =	/ 50 =	(round up to a whole number) x	=	

4. OTHER FEE(S)

Non-English Specification, \$130 fee (no small entity discount)

Other (e.g., late filing surcharge): 1 Month Extension of Time

120.00.00

SUBMITTED BY

Signature		Registration No. (Attorney/Agent)	42,065	Telephone	312-463-5000
Name (Print/Type)	Binal J. Patel	Date	December 12, 2005		

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INTELLECTUAL PROPERTY LAW

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Bimal J. Patel

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OUR REFERENCE (C/M) NO.:
011738.00139

RE: Filing of Response/Amendment and One Month Extension of Time for U.S. Serial No.
10/687,389
Application of Osorio, et al.
Filed: October 15, 2003
Title: Scoring Of Sensed Neurological Signals For Use With A Medical Device System

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